



**WASHINGTON STATE
OFFICE OF PUBLIC DEFENSE**
Larry Jefferson, Director

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February 6, 2023

The Honorable Christine Rolfes
Chair, Senate Ways & Means Committee
Washington State Senate
303 John A. Cherberg Building
PO Box 40423
Olympia, WA 98504

The Honorable Timm Ormsby
Chair, House of Representatives Appropriations Committee
Washington State House of Representatives
315 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504

Re: RCW 43.330.190—Reimbursement for Extraordinary Criminal Justice Costs

Dear Senator Rolfes and Representative Ormsby:

In accordance with the Extraordinary Criminal Justice Costs Act, RCW 43.330.190, the Office of Public Defense (OPD) has evaluated the counties' 2022 petitions for state reimbursement of costs incurred in aggravated murder cases. As required by the statute, OPD audited the veracity of the petitions. The petitions were then prioritized in consultation with the Washington Association of Prosecuting Attorneys (WAPA) and the Washington Association of Sheriffs and Police Chiefs (WASPC). This year, the list includes only a claim by Yakima County.

The statute names three factors for reimbursement consideration: disproportionate fiscal impact relative to the county criminal justice budget, efficient use of resources, and whether the costs were extraordinary and could not be reasonably accommodated and anticipated in the normal budget process.

The attached 2022 Extraordinary Criminal Justice Costs Act prioritized list (Attachment A) shows the claimed aggravated murder cases' disproportionate impact on Yakima County's budget. The impact is derived by dividing the cost of the claimed cases by the county's criminal justice budget. Factors making these costs extraordinary and preventing them from being "reasonably accommodated and anticipated in the normal budget process," as well as factors showing the counties' efficient use of resources, are specific to the circumstances of each case and county. Yakima County provided statements addressing why the costs were difficult to accommodate and anticipate in the normal budget process, and listed the measures it took to ensure the efficient use of resources. The county's statements are included as Attachment B.

Justice ♦ Service ♦ Equity ♦ Excellence

The Honorable Christine Rolfes
The Honorable Timm Ormsby
February 6, 2023
Page 2

Sincerely,

Larry Jefferson

Larry Jefferson (Feb 6, 2023 13:07 PST)

W. Larry Jefferson
Director
Washington State Office of Public Defense

Russell J. Brown

Russell Brown
Executive Director
Washington Association of Prosecuting Attorneys

Steven D. Strachan

Steven D. Strachan (Feb 7, 2023 13:24 PST)

Steven D. Strachan
Executive Director
Washington Association of Sheriffs and Police Chiefs

Extraordinary Criminal Justice Costs Act 2022 Prioritized List

| County | Verified Claim | Criminal Justice Budget | Budget Impact |
|---------------|-----------------------|--------------------------------|----------------------|
| Yakima | \$246,238.14 | \$66,182,718 | 0.37% |

Yakima County

Number of 2022 aggravated murder cases claimed: 12

Total 2022 amount supported by documentation: \$246,238.14

Extraordinary Nature of Costs—Yakima County reports:

Yakima County had 12 aggravated murder cases pending trial or post-conviction proceedings in its Superior Court in 2022. County resources are also used at the appellate stage of these proceedings. Expenditures are included in this petition.

Yakima County also responds to clemency petitions on aggravated murder cases. County resources are used by interested agencies in response and are reflected in this petition.

Four of the 12 aggravated murder cases require *Miller* re-sentencings. *Miller* resentencing requires extensive preparation and mitigation investigation similar to death penalty litigation. The expenditures are also on with pre-filing death mitigation. The expenses incurred are due to the continued expectation and requirement of significant sentencing mitigation investigations.

The Yakima County aggravated murder cases pending trial are expected to continue well into 2023. To meet its obligation its citizens, Yakima County has time passed a 3/10th of a percent sales tax to help fund the county's criminal justice needs. The funding from that initiative is included in the county's criminal justice budget. The expenses incurred by the cited aggravated murder cases cannot be accommodated the county's current budget.

Efficient Use of Resources—Yakima County reports:

Death requests have not been filed in the cases pending in Yakima County. Qualified staff attorneys at the Dept. of Assigned Counsel, or qualified attorneys who have contracts with the county to provide indigent defense services, are appointed when possible. Terms of appointments of qualified attorneys outside of the indigent defense program are tailored to case needs.